

Attorney Docket #: E6026-484
App. Serial No.: 10/825,518

REMARKS

This reply is responsive to the non-office action mailed October 5, 2006 ("Office Action"). Claims 1-16 and 18-19 have been canceled without prejudice or disclaimer. Withdrawn claims 28-30 resulting from a previous restriction and election have also been canceled to place the application in condition for allowance. Independent claims 17, 23, and 26 and dependent claims 20, 22, and 27 have been amended. New dependent claims 31-40 have been added and contain the limitations of some of the cancelled claims, with changed dependency as explained herein. The new claims thus also read on the pistol/apparatus elected for further prosecution on the merits as previously elected by the Applicant. No new matter is added. Claims 17, 20-27, and 31-40 are pending in the application after entry of this amendment. The claim rejections are addressed below.

CLAIMS REJECTIONS

In the Office Action, the following rejections have been made:

Rejections under 35 U.S.C. § 112:

- Claim 27 are rejected under 35 U.S.C. § 112 second paragraph for lack of antecedent basis with respect to "the locking member" limitation.

The dependency of claim 27 has been corrected to claim 26 to address this rejection.

Rejections under 35 U.S.C. § 102 and § 103:

- Claims 1-13, 16, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent Publication 20050011099 to Kiesel et al. ("Kiesel");
- Claims 1-4, 6, 10-13, 16-18, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent 5,245,776 to Dornaus ("Dornaus");

Attorney Docket #: E6026-484
App. Serial No.: 10/825,518

- Claims 1-4, 9, 17-19, 21, and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent 3,882,622 to Perlotto ("Perlotto");
- Claims 17-21 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent 5,426,881 to Ruger ("Ruger");
- Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent 4,768,302 to Beretta ("Beretta");
- Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perlotto in view of United States Patent 6,389,728 to Lundy ("Lundy"); and
- Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dornaus in view of Perlotto.

These foregoing rejections are addressed in turn below. The Examiner, however, may find it helpful to first review the discussion below for the rejection over Ruger (p. 14) which puts the present claimed invention into perspective.

102 Rejections

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Original independent claims 17, 23, and 26 have been similarly amended to clarify Applicant's claimed invention with respect to the claimed blocking member, stopping member, and selector switch. Accordingly, rejection of these claims is addressed collectively with respect to the references cited in the Office Action.

Attorney Docket #: E6026-484
App. Serial No.: 10/825,518

Independent claim 17 essentially incorporates the limitations of dependent claims 18 and 19 which have been canceled. Claim 17 as amended requires *inter alia*:

a firing pin blocking member movable into and out of engagement with the firing pin, the firing pin blocked from forward movement when engaged by the blocking member;

a stopping member selectively movable along the longitudinal axis from an inactivated first axial position to a second activated axial position in which the stopping member engages and prevents the blocking member from being disengaged from the firing pin; and

a first manually movable selector switch rotatably mounted in the housing and connected to the stopping member, the selector switch movable in a rotational direction to control the position of the stopping member between the first and second positions.

Independent claim 23 contains similar limitations to claim 17 above and adds:

a rotationally movable locking member that engages and locks the selector switch in at least one position in which the stopping member simultaneously is in the second activated position.

Independent claim 26 contains similar limitations to claim 17, but adds and further defines the rotary selector switch and locking member as follows:

a rotary selector switch operably engaged with the firing pin and the stopping member, the stopping member pivotally mounted to the switch, the switch rotatable between at least first and second rotational positions, the switch when moved from the first position to second position retracting the firing pin within the housing so that the hammer cannot contact the firing pin and discharge the pistol, the switch when moved from the first position to second position further simultaneously moving the stopping member into the second activated axial position to prevent the blocking member from being disengaged from the firing pin; and

Attorney Docket #: E6026-484
App. Serial No.: 10/825,518

a rotationally movable locking member that in at least one position engages and holds the switch in the second position so that the hammer cannot contact the firing pin and the stopping member remains engaged with the blocking member.

None of the cited references, either alone or in combination, teaches or fairly suggests a pistol with firing pin locking mechanism as now recited in independent claims 17, 23, and 26, as explained below.

Kiesel does not anticipate amended independent claims 17, 23, and 26 for at least the reason that each and every element of these claims is not disclosed. For example, Kiesel does not teach or fairly suggest a stopping member selectively movable along the longitudinal axis from an inactivated first axial position to a second activated axial position in which the firing pin blocking member is engaged by the stopping member and prevented from disengaging from the firing pin to prevent firing of the pistol, as required by claims 17, 23, and 26. Instead, Kiesel discloses a far different firing pin locking arrangement having a locking shaft 310 with a recess 410 that is rotated into or out of abutting engagement with a movable firing pin safety 240. The locking shaft does not move axially in the pistol at all to engage the firing pin blocking member, as required by Applicant's claims 17, 23, and 26. Furthermore, Kiesel also fails to teach or suggest a rotationally movable/rotary selector switch that controls the axial position of the stopping member, as further required by claims 17, 23, and 26. Accordingly, Kiesel is distinguishable on at least on the foregoing bases.

Claims 23 and 26 further add the limitations of a locking member that locks the claimed selector switch (which controls the position of the stopping member) into the second activated axial position so that the firing pin blocking member cannot be disengaged from the firing pin. Claim 26 further adds the switch when moved from the first position to second position

Attorney Docket #: E6026-484
App. Serial No.: 10/825,518

retracting the firing pin within the housing and further simultaneously moving the stopping member into the second activated axial position to prevent the blocking member from being disengaged from the firing pin. None of these additional limitations are disclosed by Kiesel either.

For at least these foregoing reasons, Kiesel fails to disclose a firing pin blocking/locking mechanism having each and every claimed element as recited by claims 17, 23, and 26.

Accordingly, Applicant's claimed invention is distinguishable and believed to be allowable.

Dependent claims 19-22, 24-25, and 27 depend directly or indirectly from claims 17, 23, and 26 and include all of their limitations. Accordingly, these dependent claims are believed to be allowable based on the allowability of their respective independent claims, and for the additional limitations added by these claims which further distinguish over the prior art.

Dornaus also does not anticipate amended independent claims 17, 23, and 26 for at least the reason that each and every element of these claims is not disclosed. For example, Dornaus does not teach or fairly suggest a stopping member selectively movable along the longitudinal axis from an inactivated first axial position to a second activated axial position in which the firing pin blocking member is engaged by the stopping member and prevented from disengaging from the firing pin to prevent firing of the pistol, as required by claims 17, 23, and 26. Dornaus thus further also fails to teach or suggest a rotationally movable/rotary selector switch that controls the axial position of the stopping member, as further required by claims 17, 23, and 26. Instead, Dornaus merely discloses a passive firing pin lock 38 that only disengages from firing pin via a trigger pull (see, e.g., FIGS. 7 & 8; Cols. 11 & 12). The pistol user cannot actively intervene to prevent disengagement of the firing pin lock from the firing pin as with Applicant's claimed arrangement of a stopping member and selector switch control that activates or

Attorney Docket #: E6026-484
App. Serial No.: 10/825,518

deactivates the stopping member, as required by claims 17, 23, and 26. Although Dornaus may disclose a thumb actuation lever 106, it is simply part of a conventional hammer drop (decocking) mechanism that moves the firing pin forward out of the reach of the hammer, and then safely releases/ decocks the hammer to prevent unintended discharges. (see, e.g., Col. 13, line 20-Col. 14, line 5.) The disclosed lever 106 of Dornaus does not control any type of firing pin blocking mechanism (active or passive) as required by claims 17, 23, and 26. Accordingly, Dornaus is distinguishable on at least on the foregoing bases.

Claims 23 and 26 further add the limitations of a locking member that locks the claimed selector switch (which controls the position of the stopping member) into the second activated axial position so that the firing pin blocking member cannot be disengaged from the firing pin. Claim 26 further adds the switch when moved from the first position to second position retracting the firing pin within the housing and further simultaneously moving the stopping member into the second activated axial position to prevent the blocking member from being disengaged from the firing pin. None of these additional limitations are disclosed by Dornaus either.

For at least these foregoing reasons, Dornaus fails to disclose a firing pin blocking/locking mechanism having each and every claimed element as recited by claims 17, 23, and 26. Accordingly, Applicant's claimed invention is distinguishable and believed to be allowable. Dependent claims 19-22, 24-25, and 27 depend directly or indirectly from claims 17, 23, and 26 and include all of their limitations. Accordingly, these dependent claims are believed to be allowable based on the allowability of their respective independent claims, and for the additional limitations added by these claims which further distinguish over the prior art.

Attorney Docket #: E6026-484
App. Serial No.: 10/825,518

Perlotto also does not anticipate amended independent claims 17, 23, and 26 for at least the reason that each and every element of these claims is not disclosed. For example, Perlotto does not teach or fairly suggest a stopping member selectively movable along the longitudinal axis from an inactivated first axial position to a second activated axial position in which the firing pin blocking member is engaged by the stopping member and prevented from disengaging from the firing pin to prevent firing of the pistol, as required by claims 17, 23, and 26. Perlotto thus further also fails to teach or suggest a rotationally movable/rotary selector switch that controls the axial position of the stopping member, as further required by claims 17, 23, and 26. Instead, the terse disclosure of Perlotto merely teaches a key-operated cam 10 in combination with a safety lever 20 (see FIG. 2 and Col. 1, lines 28-35) having a spring-biased plunger 12 that fits in a complementary-shaped recess 14 “thereby preventing the safety lever 20 to be removed from the ‘safety position’ of the firearm as shown in FIG. 2.” (Col. 2, lines 6-11). Perlotto nowhere teaches a firing pin blocking mechanism, and in fact does not even disclose what safety lever 20 might control or how the firing mechanism might be disabled by the safety lever. Accordingly, Perlotto is distinguishable on at least on the foregoing bases.

Claims 23 and 26 further add the limitations of a locking member that locks the claimed selector switch (which controls the position of the stopping member) into the second activated axial position so that the firing pin blocking member cannot be disengaged from the firing pin. Claim 26 further adds the switch when moved from the first position to second position retracting the firing pin within the housing and further simultaneously moving the stopping member into the second activated axial position to prevent the blocking member from being disengaged from the firing pin. None of these additional limitations are disclosed by Perlotto either.

Attorney Docket #: E6026-484
App. Serial No.: 10/825,518

For at least these foregoing reasons, Perlotto is far removed from Applicant's claimed invention failing to disclose a firing pin blocking/locking mechanism having each and every claimed element as recited by claims 17, 23, and 26. Accordingly, Applicant's claimed invention is distinguishable and believed to be allowable. Dependent claims 19-22, 24-25, and 27 depend directly or indirectly from claims 17, 23, and 26 and include all of their limitations. Accordingly, these dependent claims are believed to be allowable based on the allowability of their respective independent claims, and for the additional limitations added by these claims which further distinguish over the prior art.

Ruger also does not anticipate amended independent claims 17, 23, and 26 for at least the reason that each and every element of these claims is not disclosed. For example, Ruger does not teach or fairly suggest a stopping member selectively movable along the longitudinal axis from an inactivated first axial position to a second activated axial position in which the firing pin blocking member is engaged by the stopping member and prevented from disengaging from the firing pin to prevent firing of the pistol, as required by claims 17, 23, and 26. Ruger thus further also fails to teach or suggest a rotationally movable/rotary selector switch that controls the axial position of the stopping member, as further required by claims 17, 23, and 26. In fact, Applicant's present application, which is co-owned by the same assignee as Ruger United States Patent 5,426,881, solves the problem of providing an internal locking mechanism within the constraints of very limited available internal space in the pistol for the firing pin blocking system generally disclosed in Ruger (see, e.g., FIG. 2 and Col. 2, lines 26-53, firing pin block 22). Accordingly, Ruger does not disclose any means for preventing the firing pin block 22 into position so that it cannot be disengaged from the firing pin and is distinguishable at least on the foregoing bases.

Attorney Docket #: E6026-484
App. Serial No.: 10/825,518

Claims 23 and 26 further add the limitations of a locking member that locks the claimed selector switch (which controls the position of the stopping member) into the second activated axial position so that the firing pin blocking member cannot be disengaged from the firing pin. Claim 26 further adds the switch when moved from the first position to second position retracting the firing pin within the housing and further simultaneously moving the stopping member into the second activated axial position to prevent the blocking member from being disengaged from the firing pin. None of these additional limitations are disclosed by Ruger either.

For at least these foregoing reasons, Ruger fails to disclose a firing pin blocking/locking mechanism having each and every claimed element as recited by claims 17, 23, and 26. Accordingly, Applicant's claimed invention is distinguishable and believed to be allowable. Dependent claims 19-22, 24-25, and 27 depend directly or indirectly from claims 17, 23, and 26 and include all of their limitations. Accordingly, these dependent claims are believed to be allowable based on the allowability of their respective independent claims, and for the additional limitations added by these claims which further distinguish over the prior art.

Beretta also does not anticipate amended independent claims 17, 23, and 26 for at least the reason that each and every element of these claims is not disclosed. For example, Beretta does not teach or fairly suggest a stopping member selectively movable along the longitudinal axis from an inactivated first axial position to a second activated axial position in which the firing pin blocking member is engaged by the stopping member and prevented from disengaging from the firing pin to prevent firing of the pistol, as required by claims 17, 23, and 26. Beretta thus further also fails to teach or suggest a rotationally movable/rotary selector switch that controls the axial position of the stopping member, as further required by claims 17, 23, and 26.

Attorney Docket #: E6026-484
App. Serial No.: 10/825,518

Instead, Beretta teaches an "interrupted type" two-piece firing pin having a frontal element and a separate rear element 4 (FIGS. 2; Col. 3, lines 28-36.) Rear firing pin element 4 is mounted in a rotating shaft 8 having a control lever 9 to rotate to the shaft (Col. 3, lines 45-49). The frontal and rear elements must be axially aligned to fire the pistol by striking rear element 4 with hammer 9. When the front and rear elements are "disaligned," the firing pin is neutralized and the pistol cannot be fired (Col. 3, line 65-Col. 4, line 2). Accordingly, Beretta is distinguishable on at least on the foregoing bases.

Claims 23 and 26 further add the limitations of a locking member that locks the claimed selector switch (which controls the position of the stopping member) into the second activated axial position so that the firing pin blocking member cannot be disengaged from the firing pin. Claim 26 further adds the switch when moved from the first position to second position retracting the firing pin within the housing and further simultaneously moving the stopping member into the second activated axial position to prevent the blocking member from being disengaged from the firing pin. None of these additional limitations are disclosed by Beretta either.

For at least these foregoing reasons, Beretta fails to disclose a firing pin blocking/locking mechanism having each and every claimed element as recited by claims 17, 23, and 26. Accordingly, Applicant's claimed invention is distinguishable and believed to be allowable. Dependent claims 19-22, 24-25, and 27 depend directly or indirectly from claims 17, 23, and 26 and include all of their limitations. Accordingly, these dependent claims are believed to be allowable based on the allowability of their respective independent claims, and for the additional limitations added by these claims which further distinguish over the prior art.

Attorney Docket #: E6026-484
App. Serial No.: 10/825,518

In sum, it is respectfully submitted that claims 17 and 20-27 are novel and believed to be allowable over all of the foregoing cited references. Moreover, considering Applicant's claimed invention as a whole, MPEP 2141.02 (citing *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530 (Fed. Cir. 1983)), none of the cited references either alone or in combination teaches or fairly suggests a pistol having a manually movable decocking selector switch (e.g., thumb lever) that serves a dual function of both withdrawing the firing pin from the reach of the hammer and preventing the firing pin block from being disengaged from the firing pin. Furthermore, in some embodiments the manual selector switch may be locked into "safe" (locked) position in which the stopping member engages and prevents movement of the firing pin blocking member so the firing pin cannot be released. None of the references provides a selector switch with these advantages.

103 Rejections

"To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." MPEP 2143.02 (citing *In re Royka*, 490 F.2d 981 (CCPA 74)). Furthermore, "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." MPEP 2143.02 (citing *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970)).

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perlotto in view of Lundy. Claim 22 depends from independent claim 17 and contains all of its limitations. For at least the reasons presented above in the discussion of claim 17 and Perlotto, claim 22 should be allowable for at least the reason that the combination of Perlotto and Lundy fail to teach or suggest all the claim limitations. Perlotto does not teach each and every element of claim 17 for the reasons presented above. Lundy fails to make up the deficiencies of Perlotto for at least the

Attorney Docket #: E6026-484
App. Serial No.: 10/825,518

reason that Lundy does not disclose any type of firing pin blocking mechanism at all. For example, Lundy discloses a key-operated safety cam 20 that blocks the hammer (not shown) from striking the firing pin (Col. 1, lines 59-65). No blocking means are disclosed in Lundy for arresting movement of the firing pin. Accordingly, no prima facie case of obviousness can be established and claim 22 is believed to be allowable.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dornaus in view of Perlotto. Claim 27 depends from independent claim 26 and contains all of its limitations. For at least the reasons presented above in the discussion of claim 26 with Dornaus and Perlotto, claim 27 should be allowable for at least the reason that the combination of these references fail to teach or suggest all the claim limitations as explained before. Accordingly, no prima facie case of obviousness can be established and claim 27 is believed to be allowable.

New Claims

New dependent claims 31-40 have been added and depend from independent claims 17 or 23. These claims essentially contain the limitations of canceled dependent claims 2-3, 5-9, and 14-15, as follows for the convenience of the Examiner:

<u>Canceled Claim No.</u>	<u>New Claim No.</u>
2	31
3	32
5	33
6	34
7	35
8	36
9	37
14	38, 39
15	40

Attorney Docket #: E6026-484
App. Serial No.: 10/825,518

The new claims are thus fully supported by at least the original canceled claims from which they were adopted and the application as originally filed. No new matter is added. New claims 31-40 should be allowable based on the allowability of independent claims 17 or 23 from which they depend, for at least the same reasons as discussed above.

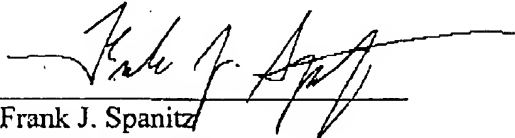
CONCLUSION

In view of the foregoing, Applicant respectfully requests reconsideration and allowance of all pending claims. If the Examiner disagrees with the allowability of the claims or if there are any remaining issues that may be resolved by telephone to expedite allowance, the Examiner is kindly requested to contact the Applicant's undersigned representative directly at 215.979.1554.

Respectfully submitted,

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By: _____


Frank J. Spanitz
Reg. No. 47,104

CUSTOMER NO. 000067812
Duane Morris, LLP
968 Postal Road, Suite 110
P.O. Box 90400
Allentown, PA 18109-0400
Telephonic: (215) 979-1550
Telecopier: (610) 264-3295